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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Modernizing the E-rate
Program for Schools and Libraries

)
) WC Docket No. 13-184
)

**Comments in Support of Infinity Communications and Consulting, Inc's
Petition for Reconsideration and/or Clarification and State E-rate Coordinators' Alliance (SECA)
Comments Regarding Report and Order Released on December 3, 2019; FCC Order 19-117
Concerning Exclusion of Part-Time Students in Category 2 Budgets**

The West Virginia Department of Education (WVDE) supports Infinity Communications and Consulting, Inc's Petition for Reconsideration and echoes SECA's Comments that further clarify the issues regarding the exclusion of part-time students in the calculation of Category 2 budgets beginning in FY2021.¹

In the December 3, 2019 Category 2 Order,² the FCC adopted district-wide and library system-wide calculation of Category 2 budgets beginning in FY 2021. This action was uniformly supported as a streamlining measure that would reduce complexity and increase efficiency without compromising any protections to guard against waste, fraud or abuse. The WVDE wholeheartedly agrees with measures that streamline and simplify the program; however, we have reservations with the impact of an entire group of entities that results from these changes.

A portion of the FCC's Order included the outcome of no longer allowing for any part-time students to be counted in the calculation of the total number of students for the district-wide budgets. This was alluded to by the FCC as a measure to improve efficiency and reduce complexity for applicants as the FCC believed part-time student counts to be no longer necessary. Unfortunately, the unintended consequence of this action is that career-technical education facilities effectively become defunded for Category 2 support of the E-rate program.

The Order stated in paragraph 26:

⁷⁸ In limited circumstances, basing student counts on full-time enrollment only could slightly reduce the category two budget for some applicants. See *2014 Second E-Rate Order*, 29 FCC Rcd at 15566, para. 87. We believe, however, that the

¹ The comment cycle was established pursuant to legal notice published in 85 F.R. 16605 (March 24, 2020).

² Modernizing the E-rate Program for Schools and Libraries, *Report and Order*, WC Docket No. 13-184, FCC 19-117 (released December 3, 2019)(“Category 2 Order”).

administrative benefits of basing student counts on full-time enrollment only that are discussed above outweigh the slight reductions in funding these applicants will experience.

⁷⁹ See, e.g., E-Rate & Educational Services Comments at 2 (stating that district-wide budgets eliminate the need to count part-time students); NEDOE Reply at 4 (noting that district-wide budgets could simplify the application process by eliminating part-time student counts).

In Footnote 78, the FCC recognized that the exclusion of part-time students in the count of students could reduce Category 2 budgets for some applicants but believed that this reduction was outweighed by the administrative benefits. The FCC assumed, based on the views of two commenters, that the impact would be incidental or “slight.” Unfortunately, while this may be the case in the states of the two commenters cited supporting this initiative, in West Virginia, we stand to lose approximately \$1.68 million in funding that would support networking used by the 10,085 students in the Career Technical Center facilities of West Virginia.

While the FCC assumed that the reduction in funds could be absorbed via a district-wide budget, West Virginia has already submitted comments showing evidence that the per-pupil budgets are not sufficient for the schools in our state. To further burden a district by reducing those budgets and expecting them to pull funds from the home schools to shift to the vocational centers, to ensure their networks are optimal, is not realistic. Additionally, in districts that have multi-county vocational centers, these districts will be expected to pull from their budgets to provide networking support for students that are not included in their student enrollments or funding at any location.

WVDE concurs with SECA that the ideal resolution would be that a district should be permitted to add the head count of the total number of students attending the entity to their district-wide enrollment whenever a school in a district has an enrollment comprised of 51% or more part-time students. The 51% threshold is intended to capture all situations where the majority of enrolled students in a particular school are considered part-time. This clarification will address those situations where most of the student enrollment is part-time in a school and will allow that school (and its associated district) to receive a fair and adequate Category 2 budget.

We therefore request that the Commission reconsiders the Category 2 Order to address the recommendations set forth in the SECA comments.

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